

**ACCOUNTING FOR COMPETITIVE ACTIVITIES OF LOCAL ENTITIES**

**LONG TITLE**

**General Description:**

This bill modifies provisions of the Uniform Fiscal Procedures Acts applicable to specified local entities to address accounting for competitive activities.

**Highlighted Provisions:**

This bill:

- defines terms;
- requires a county, city, or local district to account for a competitive activity in a separate fund or in a program budget;
- requires annual reviews to determine whether an activity is a competitive activity; and
- allows for the withholding of state funds for violations.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on July 1, 2008 and applies to the first budget year that begins on or after July 1, 2008.

List of sections affected:

**ENACTS:**

10-6-108.5

17-36-6.5

17B-1-604.5

Statutory text:

**10-6-108.5. Accounting for a competitive activity.**

(1) As used in this section:

(a) "Competitive activity" means an activity engaged in by a city or an entity created by the city:

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- 32 (i) that is not a core governmental activity; and  
33 (ii) by which the city or an entity created by the city provides a good or service that is  
34 substantially similar to a good or service that is:  
35 (A) provided by a person who is not an entity of the federal government, state government, or  
36 a political subdivision of the state; and  
37 (B) provided within:  
38 (I) the boundary of the city; or  
39 (II) 30 miles of the boundary of the city.  
40 (b) "Core governmental activity" means:  
41 (i) a legislative activity of the legislative body of the city; or  
42 (ii) a regulatory activity of the executive of a city.  
43 (c)(i) Subject to Subsection (1)(c)(ii), "entity created by the city" includes:  
44 (A) an entity created by a interlocal agreement under Title 11, Chapter 13, Interlocal  
45 Cooperation Act, in which the city participates; and  
46 (B) a special service district created under Title 17A, Chapter 2, Part 13, Utah Special  
47 Service District Act.  
48 (ii) "Entity created by the city" does not include a local district created by a city under  
49 Title 17B -- Limited Purpose Local Government Entities - Local Districts.  
50 (d)(i) "Separate fund" means an independent fiscal and accounting entity that is a  
51 self-balancing set of accounts:  
52 (A) recording:  
53 (I) cash and other financial resources;  
54 (II) related liabilities and residual equities;  
55 (III) balances; and  
56 (IV) changes in the set of accounts; and  
57 (B) that is segregated from other funds.  
58 (ii) "Separate fund" includes an enterprise fund.  
59 (2)(a) A city shall account for a competitive activity of the city using a separate fund  
60 beginning on the first day of the fiscal year immediately following the day on which the  
61 activity becomes a competitive activity.  
62 (b) A separate fund created in accordance with this section is subject to the same budget  
63 requirements as a budgetary fund.

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64 (3) The legislative body of a city shall annually review the one or more activities of the city or  
65 of an entity created by the city to determine if an activity is a competitive activity including  
66 determining if an activity is substantially similar to an activity described in Subsection  
67 (1)(a)(ii).

68 (4) Notwithstanding the other provisions of this section, a city may account for a competitive  
69 activity using a program budget, as described in the Uniform Accounting Manual for Utah  
70 Cities created by the State Auditor, if the legislative body of the city determines that the  
71 program budget provides the same independent fiscal and accounting as would a separate  
72 fund.

73 (5) A city is subject to the withholding of state money in accordance with Section 10-6-104 if  
74 the city violates this section.

75

### 76 **17-36-6.5. Accounting for a competitive activity.**

77 (1) As used in this section:

78 (a) "Competitive activity" means an activity engaged in by a county or an entity created by the  
79 county:

80 (i) that is not a core governmental activity; and

81 (ii) by which the county or an entity created by the county provides a good or service that is  
82 substantially similar to a good or service that is:

83 (A) provided by a person who is not an entity of the federal government, state government, or  
84 a political subdivision of the state; and

85 (B) provided within:

86 (I) the boundary of the county; or

87 (II) 30 miles of the boundary of the county.

88 (b) "Core governmental activity" means:

89 (i) a legislative activity of the legislative body of the county; or

90 (ii) a regulatory activity of the executive of a county.

91 (c)(i) Subject to Subsection (1)(c)(ii), "entity created by the county" includes:

92 (A) an entity created by a interlocal agreement under Title 11, Chapter 13, Interlocal  
93 Cooperation Act, in which the county participates; and

94 (B) a special service district created under Title 17A, Chapter 2, Part 13, Utah Special  
95 Service District Act.

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96 (ii) "Entity created by the county" does not include a local district created by a county under  
97 Title 17B -- Limited Purpose Local Government Entities - Local Districts.

98 (d)(i) "Separate fund" means an independent fiscal and accounting entity that is a  
99 self-balancing set of accounts:

100 (A) recording:

101 (I) cash and other financial resources;

102 (II) related liabilities and residual equities;

103 (III) balances; and

104 (IV) changes in the set of accounts; and

105 (B) that is segregated from other funds.

106 (ii) "Separate fund" includes an enterprise fund.

107 (2)(a) A county shall account for a competitive activity of the county using a separate fund  
108 beginning on the first day of the fiscal year immediately following the day on which the  
109 activity becomes a competitive activity.

110 (b) A separate fund created in accordance with this section is subject to the same budget  
111 requirements as a budgetary fund.

112 (3) The legislative body of a county shall annually review the one or more activities of the  
113 county or of an entity created by the county to determine if an activity is a competitive activity  
114 including determining if an activity is substantially similar to an activity described in  
115 Subsection (1)(a)(ii).

116 (4) Notwithstanding the other provisions of this section, a county may account for a  
117 competitive activity using a program budget, as described in the Uniform Accounting Manual  
118 for Utah Counties created by the State Auditor, if the legislative body of the county  
119 determines that the program budget provides the same independent fiscal and accounting as  
120 would a separate fund.

121 (5)(a) The state auditor may withhold state money allocated to a county for its failure to  
122 comply with this section.

123 (b) Within 30 days of the day on which a county complies with this section, the state auditor  
124 shall distribute the money withheld under this Subsection (5) to the county.

125

126 **17B-1-604.5 Accounting for a competitive activity.**

127 (1) As used in this section:

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- 128 (a) "Competitive activity" means an activity engaged in by a local district or an entity created  
129 by the local district:
- 130 (i) that is not a core governmental activity; and  
131 (ii) by which the local district or an entity created by the local district provides a good or  
132 service that is substantially similar to a good or service:
- 133 (A) provided by a person who is not an entity of the federal government, state government, or  
134 a political subdivision of the state; and
- 135 (B) provided within:
- 136 (I) the boundary of the local district; or  
137 (II) 30 miles of the boundary of the local district.
- 138 (b) "Core governmental activity" means:
- 139 (i) a legislative activity of the legislative body of the local district; or  
140 (ii) a regulatory activity of the executive of a local district.
- 141 (c) "Entity created by the local district" includes an entity created by a interlocal agreement  
142 under Title 11, Chapter 13, Interlocal Cooperation Act, in which the local district participates.
- 143 (d)(i) "Separate fund" means an independent fiscal and accounting entity that is a  
144 self-balancing set of accounts:
- 145 (A) recording:
- 146 (I) cash and other financial resources;  
147 (II) related liabilities and residual equities;  
148 (III) balances; and  
149 (IV) changes in the set of accounts; and
- 150 (B) that is segregated from other funds.
- 151 (ii) "Separate fund" includes an enterprise fund.
- 152 (2)(a) A local district shall account for a competitive activity of the local district using a  
153 separate fund beginning on the first day of the fiscal year immediately following the day on  
154 which the activity becomes a competitive activity.
- 155 (b) A separate fund created in accordance with this section is subject to the same budget  
156 requirements as a budgetary fund.
- 157 (3) The board of trustees of a local district shall annually review the one or more activities of  
158 the local district or of an entity created by the local district to determine if an activity is a

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159 competitive activity including determining if an activity is substantially similar to an activity  
160 described in Subsection (1)(a)(ii).

161 (4) Notwithstanding the other provisions of this section, a local district may account for a  
162 competitive activity using a program budget, as described in the Uniform Accounting Manual  
163 for Utah Local Districts created by the State Auditor, if the board of trustees of the local  
164 district determines that the program budget provides the same independent fiscal and  
165 accounting as would a separate fund.

166 (5) (a) The state auditor may withhold state money allocated to a local district for its failure  
167 to comply with this section.

168 (b) Within 30 days of the day on which a local district complies with this section, the state  
169 auditor shall distribute the money withheld under this Subsection (5) to the local district.

170

### 171 **Section. X. Effective date.**

172 This bill takes effect on July 1, 2008 and applies to the first budget year that begins on or  
173 after July 1, 2008.